IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 1454 of 2005
In
SPECIAL CIVIL APPLICATION No. 9898 of 2005

For Approval and Signature:

HONOURABLE THE ACTING CHIEF JUSTICE Y.R.MEENA

HONOURABLE MR.JUSTICE A.S.DAVE

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STATE OF GUJARAT & another
Versus
SWAMINARAYAN SARVAMANGAL TRUST & another

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Appearance :

Ms. Manisha L. Shah, Assistant Government Pleader for the appellants

Mr. H.J. Nanavati for respondent No.1

Mr. Prakash K. Jani for respondent No.2

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CORAM : HONOURABLE THE ACTING CHIEF JUSTICE Y.R.MEENA

and

HONOURABLE MR.JUSTICE A.S.DAVE

Date : 21/11/2006

ORAL JUDGMENT

The short controversy involved in this appeal is, once 'no objection certificate' has been issued by the State and, thereafter, recognition has

been granted by the Central Authority, namely, National Council for Teacher Education ['NCTE' for short] under the provisions of Section 14 of the National Council for Teacher Education Act, 1993, whether the State has any authority to cancel the 'no objection certificate' granted earlier.

Following the decision of Their Lordships in the case of St. Johns Teacher Training Institution vs. National Council for Teacher Education & Others, reported in AIR 2003 Supreme Court 1533, the learned Single Jude has allowed the writ petition and quashed the order dated 25th February 2005 passed by the State Government cancelling the "NOC" granted earlier in favour of Shree Swaminarayan Sarvamangal Trust, respondent No.1 herein. The relevant observations of the learned Single Judge read as under:

> "10.0 In the case of St. Johns Teachers Training Institution Vs. National Council for Teacher Education & Others, reported in AIR 2003 SC 1533 (=2003(3) SCC 321), the Apex Court held that the grant or refusal of no objection certificate by the State Government or Union Territories is not conclusive or binding, and views expressed by the State Government will be considered by the Regional Committee while taking decision on the application for grant of recognition. Even if the NOC is not granted, NCTE has power to grant recognition. In that view of the matter, it is for NCTE to decide whether to accept or reject the recommendations of the State Government.
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> 11.0 It is also clear that the validity of No Objection Certificate is either for three years as provided in Regulation 6(v) or till the NCTE grants recognition to the institution. Once the recognition is granted by NCTE, all powers of withdrawal or derecognition of the institution rest with NCTE and the authorities of State Government will become functus officio. At the most, they can bring to the notice of NCTE any irregularities on the part of the institution for necessary action at the end of NCTE as per the provisions of the Act. While passing the impugned order the respondent Authorities have ignored the above aspects.

12.0 Thus, apart from the fact that the impugned order has been passed in violation of principles of natural justice, the State Government ought not to have cancelled the NOC without pointing out the alleged irregularities to NCTE. Further, while passing the impugned order the State Government has not taken into consideration the future of the students who are prosecuting their studies in the Institution. The impugned order does not specify that the said order would come into force only at the end of the academic term/year whereas section 17 of the Act stipulates that cancellation of recognition shall come into force only with effect from the end of the academic session. Therefore the order passed by the State Government is in clear violation of the provisions of section 17 of the Act and therefore the same is bad in law.

13.0 It is required to be noted that the Government has power to recommend the case of the petitioner to NCTE if there are any irregularities. Therefore the State Government may recommend the case of the petitioner with appropriate report.

14.0 In the premises aforesaid, the petition succeeds. The order dated 25.2.2005 at Annexure-A is quashed and set aside. However, the State Government shall send their recommendation with appropriate report to NCTE for taking appropriate action in respect of the alleged irregularities. Rule is made absolute accordingly with no order as to costs."

In St. Johns Teacher Training Institution (supra), Their Lordships, in paragraph 18, observed as under:

"18. Regulation 6(ii) of these Regulations provides that the endorsement of the State Government/Union Territory Administration in regard to issue of NOC will be considered by the Regional Committee while taking a decision on the application for recognition. This provision shows that even if the NOC is not granted by the concerned State Government or Union Territory and the same is refused, the entire matter will be examined by the Regional Committee while taking a decision on the application for recognition. Therefore, the grant or refusal of a NOC by the State Government or Union Territory is not conclusive or binding and the views expressed by the State Government will be considered by the Regional Committee while taking the decision on the

application for grant of recognition. In view of these new regulations the challenge raised to the validity of Regulations 5(e) and (f) has been further whittled down. The role of the State Government is certainly important for supplying the requisite data which is essential for formation of opinion by the Regional Committee while taking a decision under sub-section (3) of Section 14 of the Act. Therefore, no exception can be taken to such a course of action."

Considering the above, once the recognition has been granted by the NCTE on the basis of 'no objection certificate' having been granted by the State Government, then, the State Government has no authority to cancel the 'no objection certificate' thereafter.

We see no merit in this appeal and this appeal stands dismissed.

The interim relief stands vacated.

(Y.R. MEENA, ACTG.C.J.)

(ANANT S. DAVE, J.)

(swamy)